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Marsh Fischmann & Breyfogle LLP Suite 411 3151 S. Vaughn Way Aurora, CO 80014			ALVAREZ, RAQUEL	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/001,662

Filing Date: October 18, 2001

Appellant(s): SRINIVASAN ET AL.

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Robert G. Crouch

For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 3/14/2008 appealing from the Office action mailed 8/11/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,006,265	Rangan et al.	12-1999
5,155,591	Wachob	10-1992

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6, 8-11 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan et al. (6,006,265 hereinafter Rangan) in view of Wachob (5,155,591 hereinafter Wachob).

With respect to claims 1-6, 8-11, Rangan teaches a method transmitting multimedia from a network server information over a data network (Abstract). Detecting at least one system user logged into a network server through a connection established over the data network from a remotely located computer and identifying an IP address associated with the connection of the remotely located computer with the network server, and presenting one or more hypertext links which are selectable so as to view a selected multimedia presentation (See figure 1 and 2); receiving through a screen display demographic information for at least one system user and using the IP address to access at least one database to retrieve demographic information stored therein associated with the at least one system user (col. 20, lines 52-60); based on the selected hypertext link accessing the selected multimedia presentation in a computer memory and transmitting the selected multimedia presentation information from the network server over the connection to the remotely located computer (Figure 6).

With respect to detecting an inserted commercial break during the transmission of the multimedia presentation and based on the demographic information associated

with the system user accessing a commercial database and retrieving and transmitting the commercial to the user during the commercial break. Rangan teaches on the fly targeted commercials or video clips insertion based on user profiles and demographics (col.7, lines 28-31 and col. 20, lines 52-60). Rangan does not specifically teach detecting a commercial break. Wachob teaches providing demographically targeted television commercials responsive to the commercial break portion of the television signal for selecting and retrieving the commercial based on the viewer's demographic (see Figure 3). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Wachob of detecting a commercial break in order to transmit the targeted commercial insertion of Rangan because such a modification would help schedule the commercials insertions.

Claims 22-25 further recite a schedule database to schedule the multimedia information. Official notice is taken that it is old and well known to schedule when certain information is to be scheduled in order to designate a fixed time for an event. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a schedule database to schedule the multimedia information in order to achieve the above mentioned advantage.

#### **(10) Response to Argument**

Appellant argues that some claims limitations were not addressed, the Examiner disagrees because all the claims limitations and arguments have been properly

addressed in the final rejection mailed on 8/11/2006 and the advisory mailed on 10/20/2006.

Appellant argues that Rangan doesn't teach demographic information for the system user is received through a screen display. The Examiner disagrees with Applicant because Rangan teaches on col. 29, lines 35-39 that the user's interest such as the user's click thorough is obtained from the screen that the user is watching. In addition, Wachob teaches the demographic information is input by the user via a remote control (see Abstract).

Appellant argues that Rangan doesn't teach insertion of commercial based on demographic information. The Examiner disagrees with Applicant because in Rangan, the system inserts targeted links (commercials) based on the received user's preferences.

Appellant argues that Wachob doesn't teach detecting a commercial break. The Examiner disagrees because Wachob on Figure 3, item 154 that the system determines if a commercial is about to occur? And if it demographic information is available for the user at step 158, then retrieving targeted commercials based on the user's information.

In response to appellant's argument that Wachob is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed

invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Rangan and Wachob are pertinent to solving the problem which is collecting users demographics in order to transmit targeted information to the end users based on their demographics.

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a person skilled in the art is presumed to have some knowledge in the art.

With respect to claim 4, Appellant argues that Rangan doesn't teach monitoring of system users. The Examiner disagrees with Appellant because Rangan teaches the system monitors and collects information on the visitor to the website. The users of the website are using their own computer and therefore it constitute *monitoring another person's computer*.

In response to appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant argues that the references do not teach querying the system user to receive demographic information, the Examiner disagrees because Wachob teaches on col. 3, lines 4-9, "In accordance with the present invention, the remote control comprises means for enabling a user to input demographic data to the converter. Such means can comprise a plurality of switches for entering information indicative of the sex and age of the user" The makes a query to the user for the information in the form of a survey or diary information which the user responds by inputting the required information into the system (col. 1, lines 48-59).

With respect to claim 11, Applicant argues that the references do not teach receiving a login ID from the user. The Examiner disagrees with Applicant because in Rangan the user logs into the network so therefore an identifier must exist.

With respect to claim 22, Appellant argues that neither Rangan nor Wachob teach a schedule database for storing the screen display which are presentable in which the user enters demographic information. The combination of Rangan and Wachob teach obtaining, storing and retrieving the user's demographic information that was input by the user, and retrieving the demographic information so that it can be matched with the targeted commercial (see Rangan col. 29, lines 35-39 and Wachob Figure 3 and Abstract). The combination of Rangan and Wachob was silent as to a schedule database in which to store the screen display and the Examiner had taken Official notice of a schedule database in which to store a screen display being well known and since, Applicant didn't command a proper challenge that would at least cast reasonable

doubt on the fact taken notice of, the Official notice was sustained. See MPEP 2144.03.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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